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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,006	10/31/2001	Kazuyuki Hada	011000	5143
23850	7590	11/14/2003	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			YOON, TAE H	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/926,006

Applicant(s)

HADA ET AL.

Examiner

Tae H Yoon

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Han (US 5,853,638).

Han teaches a process for producing biaxially stretched porous polyolefin film comprising a linear low density polyethylene, an inorganic filler and polyethylene wax in abstract and examples wherein the instant water vapor transmission rate and tear strength are seen. Said film meets the instant light transmission inherently since components are same and since applicant teaches that the addition of said wax in translucent polyethylene film comprising polyethylene and an inorganic filler would yield the instant light transmission. Said inorganic filler ranges in size from 0.5 to 3  $\mu\text{m}$  (col. 3, lines 53-54) and the mean particle size of 2.0  $\mu\text{m}$  is taught at col. 6, line 52. Stretching at a ratio of at least 1.2 times is taught at col. 5, lines 8-19. Thus, the instant invention lacks novelty.

Claims 1, 3 and 5-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nishizawa et al (US 4,626,252).

Nishizawa et al teach a process for producing biaxially stretched porous polyolefin film comprising a linear low density polyethylene, an inorganic filler and a liquid or wax-like hydrocarbon polymer in abstract and examples wherein the instant water vapor transmission rate (note units) is seen. Said film meets the instant light transmission and tear strength inherently. Said liquid or wax-like hydrocarbon polymer meets the instant wax of polyolefin series absent a particular polyolefin. Stretching at a ratio of 1.2 to 2 times is taught at col. 3, lines 23-27. A laminate with a non-woven fabric is taught at col. 5, lines 19-31. Thus, the instant invention lacks novelty.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 103(a) as obvious over Nishizawa et al (US 4,626,252) in view of Han (US 5,853,638).

The instant invention further recites a mean diameter of at least 2  $\mu\text{m}$  over Nishizawa et al who teach an average particle size of 1-5  $\mu\text{m}$  at col. 2, lines 6-12. Han teach a mean particle size of 2.0  $\mu\text{m}$  at col. 6, line 52.

It would have been obvious to one skilled in the art at the time of invention to utilize the filler having a mean particle size of 2.0  $\mu\text{m}$  taught by Han in Nishizawa et al since Nishizawa et al teach an average particle size of 1-5  $\mu\text{m}$  encompassing the instant mean particle size of 2.0  $\mu\text{m}$ .

Claims 1-11 are rejected under 35 U.S.C. 103(a) as obvious over Han (US 5,853,638) in view of Niemeyer et al (US 6,140,551).

The instant invention further recites a laminate with a non-woven fabric of polyolefin over Tsuchiya et al. However, a porous polyolefin film laminated with a non-woven fabric of polyolefin is well known as taught by Niemeyer et al, col. 6, lines 64 and claims.

It would have been obvious to one skilled in the art at the time of invention to utilize make a laminate with a non-woven fabric of polypropylene in Han with teaching of Niemeyer et al since such laminate is a routine article in the diaper art as taught by Niemeyer et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tae H Yoon

Primary Examiner

Art Unit 1714

THY/November 12, 2003